

**FLATHEAD COUNTY BOARD OF ADJUSTMENT**  
**MINUTES OF THE MEETING**  
**APRIL 3, 2012**

**CALL TO  
ORDER**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Board members present were Gina Klempel, Mark Hash, Gary Krueger and Terry Kramer. Scott Hollinger had an excused absence. Bailey Iott, Alex Hogle and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were 22 people in the audience.

**APPROVAL OF  
MINUTES**

Klempel motioned and Kramer seconded to approve the February 7, 2012 minutes. The motion passed unanimously.

**PUBLIC  
COMMENT**  
*(not related to  
agenda items)*

None.

**JOHN LEDYARD**  
*(FCU-11-10)*

A request by John Ledyard for a Conditional Use Permit that would allow the expansion of an existing conditional use permit (#FCU-11-06), to allow catering classes be taught as an extension of the previously approved use, a catering business home occupation. The property is located at 280 Twin Bridges Road within the Blanchard Lake, AG-40 (Agricultural) Zoning District.

**STAFF REPORT**

BJ Grieve reviewed Staff Report FCU 11-10 for the Board.

**BOARD  
QUESTIONS**

None.

**APPLICANT  
PRESENTATION**

Erica Wirtila, Sands Surveying, represented the applicant. She reviewed the previous conditional use permit and the process needed to go through for an expansion of the existing CUP. She summarized what the applicants were asking for, which was to have people over for cooking classes on Sunday afternoons and evenings. She reviewed what needed to be met for the application. She spoke about parking on the property, concerns brought up in the staff report, and the inability of the applicant to cater and hold the classes at the same time. She also talked about the fact there may be alcohol served at some classes and the type of classes which would be held. She reviewed three

letters which she presented to the board. Traffic volume, traffic noise, enforcement of the conditions, and the permanent retirement of the wedding hosting venue application were also discussed.

Kristen Ledyard, applicant, explained why they wanted to hold the cooking classes, which was educating children on proper eating, to help adults spend time with their families, and help support the local community and businesses.

John Ledyard, applicant, said his wife put her heart and soul into what she did. He spoke about parties which had been held and who was invited. He also spoke to the concerns of people against the application which included the possible decrease in property values.

**BOARD  
QUESTIONS**

None.

**PUBLIC  
COMMENT**

Linda Clark, 396 Twin Bridges Road, was against the application.

Kristen Hamilton, 420 Hilltop Ave, was for the application.

Raymond Shupert, 500 Twin Bridges Road, was for the application.

Allen Clark, 396 Twin Bridges Road, was against the application.

Matt Springer, 2687 KM Ranch Road, read a comment letter from John and Sue Rawlings, 2555 KM Ranch Road, which was against the application and he was also against the application.

Jeff Gilman, 245 Twin Bridges Road, voiced his concerns about the application.

Tom Gilfillan, 355 Twin Bridges Road, voiced his concerns with the application. He felt they did not have all the facts to make an informed decision of whether to be for or against the application.

Joe Shupert, 500 Twin Bridges, was for the application.

**STAFF  
REBUTTAL**

Grieve agreed with Wirtila, there could not be catering as well as a class going at the same time. He spoke about the trickiness of the issue of serving alcohol and how staff tried to address the

issue and the difference of personal use versus commercial use of property. He wanted to state for the record if there was an accident at the intersection of the two roads which bordered the property, the Planning Office would not be liable, the person who caused the accident would be at fault. He also stated for the record (concerning the application submitted at the same time as this one which was wedding event center CUP) on the day the current application was submitted, there were two applications submitted. He went on to explain the relation of the applications to the current CUP for the property and how they affected each other. He also spoke of the responsibilities of the board when they heard an application. He read from the zoning regulations the board's responsibility for contemplating the immediate area impact.

**BOARD  
QUESTIONS**

Kramer and Grieve discussed the definition of 'events' in the application.

**APPLICANT  
REBUTTAL**

Wirtila said the applicant would retire the CUP application of the wedding center permanently. She spoke about the expansion of the hours of operation and the fact it was not the applicant who asked for the 24 hour a day operation, it was the board who granted them. She reiterated the expected events were intermittent. She said there were six findings of fact which did not support the application and went on to explain how the applicant mitigated them. She addressed the concern of Kramer regarding the use of the word 'event' in the application and the error of mentioning an evening event in the application.

**BOARD  
DISCUSSION**

Kramer said the board needed to consider the worst case scenario concerning the application. He mentioned the wording which suggested an expansion in the future of how many classes may be held a month, traffic increase and how bringing in outside professionals affected the definition of a home based business.

Grieve and the board discussed at length the issue of bringing in outside professionals to a home based businesses and how that issue affected a CUP and the processes which needed to be followed.

Hash commended everyone involved on their professionalism concerning the application. He was bothered by the application for the reason it affected the neighbors and went on to explain his position.

Klempel said the board held applications to high standards and she felt the application did not meet them. Everyone involved had good intentions but she felt the board kept stretching the definition of home based occupation and the board should hold to the standard and not stretch the gray area.

Krueger said his thoughts were 180 degrees from what had been stated. He felt the way the definition for home based occupation was written was hard to follow. He went on to explain places in the definition and the differences in the zoning which he thought were challenging to understand what was acceptable and what was not.

Hash said he felt Krueger's frustration but when they looked at the regulations, what the board needed to consider was the spirit and intent. He said things were fluid and gave the example of the differences in traffic.

The board and Grieve discussed at length businesses in the immediate area of the application, excessive traffic in the area and the nature of the area currently.

**MAIN MOTION  
TO ADOPT  
F.O.F., ET AND  
APPROVE  
(FCU-11-10)**

Hash made a motion to adopt staff report FCU 11-10 as findings-of-fact, excluding finding #17 because it placed an unfair burden on the applicant.

**BOARD  
DISCUSSION**

Kramer felt the findings could be revised taking into account public comment.

***Hash withdrew the motion.***

Grieve and the board briefly discussed findings #2, #5 and #6.

Krueger and the applicant discussed if a parking lot was already built to accommodate the influx of cars and how the size was determined.

The board discussed if the findings of fact were currently correct.

**MAIN MOTION  
TO ADOPT  
FINDINGS OF**

Hash motioned and Kramer seconded to strike finding-of-fact #17 and adopt findings-of-fact #1-#16 with a note stating that the applicant intended to construct a parking lot which would

**FACT 1-16 AND  
STRIKE #17  
(FCU-11-10)**

put parking into conformance.

**BOARD  
DISCUSSION**

None.

**ROLL CALL  
VOTE TO  
ADOPT  
FINDINGS OF  
FACT 1-16 AND  
STRIKE #17  
(FCU-11-10)**

On a roll call vote, the motion passed 3-1 with Krueger dissenting.

**MAIN MOTION  
TO DENY  
(FCU-11-10)**

Hash made a motion seconded by Klempel to deny FCU 11-10.

**BOARD  
DISCUSSION**

Kramer said this application was difficult and he went back to Klempel's comment about holding the application to the standard and the application did not meet all the conditions for approval.

Grieve clarified Kramer was talking about conditional use permits.

**ROLL CALL  
VOTE TO DENY  
(FCU-11-10)**

On a roll call vote, the motion passed 3-1 with Krueger dissenting.

**BOARD  
DISCUSSION**

Grieve wanted to point out the denial of this application did not affect the status of the original CUP in place.

***The board took a 5 minute break.***

**ALBIN & MARY  
KWOLEK  
(FZV-12-01)**

A request by Albin & Mary Kwolek for a Zoning Variance to property within the Happy Valley, R-2 (One Family Limited Residential) Zoning District. The applicants are requesting a variance to Section 3.10.040 (3) (B), Bulk and Dimensional Requirements, of the Flathead County Zoning Regulations to reduce the front setback for an accessory structure from 20 feet to 3 feet. The property is located at 1920 Hodgson Road.

**STAFF REPORT**

Bailey Minnich reviewed FZV 12-01 for the board.

**BOARD  
QUESTIONS**

None.

**APPLICANT  
PRESENTATION**

Albin Kwolek, applicant, gave a brief history of how the application came to be and the difficulties in placing a garage on the property.

**BOARD  
QUESTIONS**

Klempel, Kramer and Kwolek discussed the height of the proposed garage and access to the garage.

**PUBLIC  
COMMENT**

None.

**STAFF  
REBUTTAL**

Minnich clarified the maximum height allowances in the regulations and the application was for a setback variance.

The board and applicant briefly discussed height on buildings.

**BOARD  
DISCUSSION**

The board and Minnich discussed at length how close the garage would be to the setback and the size of the garage.

**MAIN MOTION  
TO AMEND  
F.O.F. #7,  
ADOPT F.O.F.  
AND APPROVE  
(FZV-12-01)**

Klempel made a motion seconded by Hash to amend finding-of-fact #7 to read:

7. Granting of the variance request would not have a significant impact on neighboring properties or the public because the proposed garage would be located approximately 17 feet from the adjacent lot, and ~~approximately~~ 3 feet from the Goat Trail alley, with no encroachments into the roadway.

And adopt staff report FZV 12-01 as findings-of-fact and approve.

**BOARD  
DISCUSSION**

The board discussed how to clarify the setback distance and how eaves affected the right of way of the alley.

**ROLL CALL TO  
AMEND F.O.F.  
#7, ADOPT  
F.O.F. AND  
APPROVE  
(FZV-12-01)**

On a roll call vote the motion passed unanimously.

**BCM  
INTERNATIONAL  
– DBA BIG SKY  
BIBLE CAMP  
(FCU-12-01)**

A request by BCM International, DBA Big Sky Bible Camp, for a Conditional Use Permit to expand the existing camp and retreat center. The applicants are proposing to construct a dining room/meeting hall, (to seat approximately 250), as well as four cabins, each with four rooms to house guests of the camp. The properties are located at 501 McCaffery Road.

**STAFF REPORT**

Alex Hogle reviewed FCU 12-01 for the board.

**BOARD  
QUESTIONS**

Klempel asked if the applicant owned both tracts of land affected by the proposed placement of the structures in the application.

Hogle said yes.

**APPLICANT  
PRESENTATION**

Jamy Landis, director of Big Sky Bible Camp, handed the board a handout with information as to what the bible camp programs were. He stated the building site could be changed so it did not straddle two parcels of property. He went on to give a history of the property, the different types of camps held on the property and why they applied for the CUP.

**BOARD  
QUESTIONS**

The board, Hogle and Landis discussed where the proposed buildings could be moved and if Landis was ok with the conditions.

**PUBLIC  
COMMENT**

Jeffery Ort, 1923 Darlington Drive, director of the special needs camp held on the property, Camp Promise, was for the application.

**BOARD  
QUESTIONS**

Krueger asked Hogle what Bigfork Land Use Advisory Board's recommendation was.

Hogle said it was a unanimous vote to recommend approval.

The board, staff and Landis discussed setbacks and site plans, and fuel reduction plans.

**MAIN MOTION  
TO ADOPT  
F.O.F.  
(FCU-12-01)**

Kramer made a motion seconded by Klempel to adopt staff report FCU 12-01 as findings-of-fact.

**BOARD  
DISCUSSION**

None.

**ROLL CALL  
VOTE TO  
ADOPT F.O.F.  
(FCU-12-01)**

On a roll call vote, the motion passed unanimously.

**MAIN MOTION  
TO APPROVE  
(FCU-12-01)**

Kramer made a motion seconded by Hash to approve FCU 12-01.

**BOARD  
DISCUSSION**

The board discussed if there was a conflict in the site plan and if the applicant needed permission to do anything else on the site plan.

Landis, Ort and staff briefly discussed the possibility of a boundary line adjustment and other options.

**ROLL CALL  
VOTE TO  
APPROVE  
(FCU-12-01)**

On a roll call vote, the motion passed unanimously.

**BOARD  
DISCUSSION**

***The board took a 5 minute break.***

**OLD BUSINESS**

None.

**NEW BUSINESS**

Kramer wanted to state for the public record, he had a client - attorney relationship with Shawn Frampton. Prior to his joining the board, he and Frampton had a conversation that his decisions were personal and they would not be influenced in any manner by Mr. Frampton being a representative on any cases.

Tara Fugina updated the board on the court case concerning the board's decision on the Eyrie Shotgun Ranch.

The board, Fugina and Grieve discussed at length the update of the case including process, what the issue was and what the board could do on future decisions to avoid being in this position again.

Grieve explained to the board what process had been done concerning filling the vacated position in the planning office. He asked if the board wanted a representative to sit on the interviewing committee for the position and who that would be.



The board and Grieve discussed who would like to sit on the committee and what that position would involve.

Hash volunteered to sit on the committee.

**ADJOURNMENT** The meeting was adjourned at approximately 9:07 pm. on a motion by Klempel. The next meeting will be held at 6:00 p.m. on May 1, 2012.

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Scott Hollinger, Chairman

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Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 6 / 12 / 12*